

REMARKS

This amendment is submitted in response to the Examiner's Action dated December 12, 2007. Applicants have canceled several claims and amended the remaining independent claim to more clearly and completely recite the novel features of the invention. No new matter has been added, and the amendments place the claims in better condition for allowance. Applicants respectfully request entry of the amendments to the claims. The discussion/arguments provided below reference the claims in their amended form.

Applicants are not conceding in this application that the previous independent claims and their dependent claims, as previously presented, were not patentable over the art cited by the Examiner. The present claim amendments and cancellations are only for facilitating expeditious prosecution of the remaining claims, which are allowable over the references. Applicants respectfully reserve the right to pursue the previous claims and other claims in one or more continuations and/or divisional patent applications.

CLAIMS OBJECTIONS

In the present Office Action, Claim 11 is objected to because of informalities. Claim 11 has been canceled, rendering the rejection moot.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In the present Office Action, Claims 1-6, 8, 10, 11, 17-22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Challener* (U.S. Patent Publication No. 2002/0169717) in view of *Kean* (U.S. Patent Publication No. 2002/0199110). Further, Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Challener* in view of *Kean* and in view of *Smith* (U.S. Patent No. 6,233,685) and in view of *Wood et al.* (U.S. Patent Publication No. 2006/0072747). The combinations of references do not render Applicants' claimed invention unpatentable because those combinations do not teach or suggest several features recited by Applicant's claims.

For purposes of this Amendment, Applicants directly traverses the rejections of independent Claim 1, which rejections are based on the combination of *Challener* and *Kean* and *Smith*. Applicants also indirectly traverses the other rejections of dependent claims, based in part on their dependency on allowable independent Claim 1.

A.3.1 General requirements for a claim rejection under 35 U.S.C. § 103(a)

According to 35 U.S.C. §103(a):

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

In order to make the obviousness determination, the U.S. Supreme Court held in *Graham v. John Deere Co.*, 383 U.S. 1 (1966) (hereinafter *John Deere*) that three factors must be considered:

- (1) the scope and content of the pertinent prior art;
- (2) differences between the pertinent prior art and the invention at issue; and
- (3) the ordinary level of skill in the pertinent art.

In *KSR International Co. v. Teleflex, Inc. et al.*, 127 S. Ct. 1727 (2007) (hereinafter *KSR*), the U.S. Supreme Court upheld the use of the *John Deere* analysis, and further clarified that a non-obviousness determination must include an inquiry as to "whether the improvement is more than the predictable use of prior art elements according to their established functions."

Under the *John Deere* (and/or *KSR*) evaluation of Applicants' claims against the prior art references, the above combination of references presented by Examiner does not render Applicants' claims obvious because the various references and combinations thereof fail to teach and/or suggest several features recited by Applicants' claims. That is, the differences between the prior art references and the claimed invention are such that one skilled in the pertinent art would not find Applicants' invention to be suggested by the combination proffered by the Examiner.

For example, among the features of Applicants' independent Claim 1, which are not taught nor suggested by the combination are the following (non-exhaustive list) of features:

- (1) *hashing a second copy of said secret number with a public key from said endorsement key pair;*
- (2) *combining a first hash result from said hashing step with the public key to create the endorsement key (EK);*
- (3) *verifying ... that an endorsement key of said valid device is a valid endorsement key of said endorsement key pair that was generated during manufacture of said valid device, ...said verifying step further comprising: receiving said EK from said device at the credential server;*
- (4) *hashing the public key within the received EK with the first copy of said secret number received during said forwarding step to provide a second hashed value; comparing the first hashed value from within the EK with the second hash value; and confirming said EK is from a valid device when said comparing step results in a match;*

(Claim 1, as amended)

Having reviewed the references and in particular the cited sections of the primary references being relied on by Examiner to support the 103 rejections, Applicants conclude that Examiner has clearly mischaracterized the teachings found within these references. Examiner then relies on the mischaracterizations to support the rejections of Applicants' claimed features. For example, at the top of page 5 of the Office Action, in rejection the hashing of the second copy of the secret number and associated elements (original Claim 3 elements now incorporated into Claim 1) and hashing the public key with the received EK and associated elements (original Claim 4 elements now incorporated into Claim 1), Examiner references paragraph 0023 of *Challener*. However, that section of *Challener* recites the following:

The public key, P 2 , of the TPM identity and the certificate, C 1 , tied to the public portion of the endorsement key, P 1 , are then sent over the Internet to a Certificate Authority (CA). This may be authorized by the user as a result of a user command. The CA checks the accuracy of the certificate, C 1 , signed by the manufacturer. The CA can perform this check by looking in a database at the manufacturer's website. The CA then makes a certificate, C 2 , for the TPM identity, P 2 , and encrypts the certificate, C 2 , and bundles it with the public key, P 2 , of the TPM identity sent by the customer. This second bundle is then encrypted with the public endorsement key, P 1 , of the TPM.

Clearly, nothing within this section teaches or suggests any of the elements or associated features related to hashing the second copy of the secret number or hashing the public key with the received EK, as are recited by Applicants' independent claim. The independent claim is therefore allowable over the above combination of references.

As another example of Examiner's reliance on a mischaracterization of a reference to support the 103 rejections, col. 9, lines 12-17 of *Smith* does not teach or suggest forwarding a first copy of the secret number to the credential server. Rather, that section of *Smith* recites: "[h]owever, the certifying to be authenticated. In one implementation the certifying authority does this by sending the certificate to the device (118). The device may thenceforth be requested to present the certificate and/or the information contained in it to the requesting party." Clearly, this section of *Smith* teaches the exact opposite of Applicants' claimed feature, and is therefore does not suggest that feature of Applicants' claim.

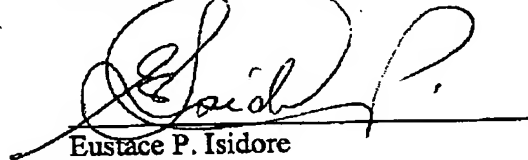
The above deficiencies in the teachings and suggestions of the primary combination (*Challener* and *Kean*, and *Smith*) indicate that the combinations of these references do not teach or suggest the subject matter of Applicants' independent claim. From the above discussion/arguments and the reasons provided therein, it is also clear that the combinations of references do not suggest other features of Applicants' claimed invention. One skilled in the art would not find Applicants' invention unpatentable over the combinations of references. Applicants' independent Claim 1, and by virtue of their dependency on Claim 1, all other pending claims are therefore allowable over the combinations.

CONCLUSION

Applicants have diligently responded to the Office Action by amending the claims to more clearly and completely recite the novel features of the claimed invention. Applicants have also provided discussion/arguments which explain why Applicants' claims are not obvious in light of the combinations of references provided. The amendments and arguments overcome the §103 rejections, and Applicants, therefore, respectfully request issuance of a Notice of Allowance for all claims now pending.

Applicants further respectfully request the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,



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